

1904-002 Chancery Causes: V. S. Banner to do. Wyatt Coger to
Lee Co.

Fletcher, Gillenwaters, Barker

1 Plat

CA - Estate Dispute
T - Property

To the Honorable H.A.W. Skeen, Judge of the Circuit Court of
Lee County, Virginia:

Humbly complaining, your complainants V.S. Banner, Elizabeth
Gillenwaters, nee Banner, Rebecca Barker, nee Banner, Nannie
Coger ^{nee Banner} and daughters of David Banner, deceased; E.B. Coger,
Marvin Coger, Ida Coger, and Grover Coger, sons and daughters of
Mary Coger, nee Mary Banner, deceased, would respectfully shew unto
your Honor that David Banner recently departed this life intestate,
seized and possessed of valuable real estate, situated in
this County, consisting of two tracts containing in the aggregate
550 or 600 acres, adjoining the lands of V.S. Banner on the east,
and T.L. Fannon on the west; that at the time he died, the said
David Banner left surviving him, a widow and the following children,
to-wit, V.S. Banner, Elizabeth Gillinwaters, nee Banner,,
Rebecca Barker, nee Banner, Nannie Coger, nee Banner, and the
following grandchildren, to-wit, E.B. Coger, Marvin Coger,, Ida
Coger,, Grover Coger, Wyatt Coger and Forest Coger, children and
heirs at law of Mary Coger, nee Banner, deceased; Howell H., Hutchie
L., Roy, David, Maude and Theodore R. Fletcher, children and heirs
at law of Emma Fletcher, nee Banner, deceased, to whom said lands
descended.

Your complainants will now shew your Honor that the said Wyatt
and Grover Coger, Howell H., Hutchie L., Roy, David, Maude and
Theodore R. Fletcher, are infants under the age of twenty-one years:

The prayer of your Complainants is that ^{Forest Coger} ~~Eliza~~ Banner, widow
of David Banner, deceased; Wyatt Coger; Grover Coger, Howell H.,
Hutchie L., Roy, David, Maude and Theodore R. Fletcher, be made the
parties defendant to this bill; that the said ~~Eliza~~ Banner be re-
quired to answer the same but not under oath, answer under oath
being waived; that a Guardian ad litem be appointed to answer and
defend for the said infant defendants; that upon a hearing, Com-
missioners be appointed directed to lay off and assign dower to the
said widow in said real estate, ^{and} to partition the whole of said
real estate among the parties entitled thereto; and for full and
complete general relief. And they will ever pray &c.

Duncan & Criddle, P.A.

V.S. Baumer et al
vs. { In Chancery
Wyatt Coger et al
Bill

Filed Dec. 21st 1904
H. T. Ewing, Clk.

V. S. Banner et al
vs. { In Chy.

Wyatt Cogger et al

— Bill —

Codes:

Clerk \$7.63

Shff. 1.50

Ally 15.00

Costs 5.00

W. E. Thompson \$21.00

Elkanah Flanary 7.00

A. P. Hickam 9.00

Charles Banner 5.00 ch. man

J. W. Hall 5.00 " "

J. E. Hillenwater 5.00 flog "

\$81.13

To the Honorable H.A.W.Skeen, Judge of the Circuit Court of
Lee County, Virginia,

The answer of Wyatt Coger, Grover Coger, ^{Forest Coger} Howell H. Fletcher,
Hutchie L. Fletcher, Roy Fletcher, David Fletcher, Maude Fletcher,
and Theodore R. Fletcher, by A.M. Goins, their guardian ad litem,
assigned to defend them in this suit, to a bill of complaint exhibited
against them in this Honorable Court by V.S. Banner et al.

Respondents reserving to themselves the benefit of all just
exceptions to the said bill, for answer thereto, or to so much
thereof as they are advised it is material or necessary that they
should answer the same, by their guardian ad litem, answering say:

That they are infants of tender years, and by reason of their
infancy, are incapable of understanding, or of taking care of
their rights and interests. They therefore by the said guardian
ad litem, commend themselves and their rights and interests to the
protection of the Court, and pray that no decree may be pronounced
which will ten to their prejudice.

And having fully answered, the said respondents pray to be
hence dismissed with their reasonable costs in this behalf expended,
and they will ever pray &c.

A. M. Goins,
Guardian ad litem for Wyatt & Grover ^{Forest} Coger, Howell H., Hutchie L., Roy,
David, Maude and Theodore R. Fletcher.

Sworn to before me by A.M. Goins, guardian ad litem for Wyatt, ^{Forest}
and Grover Coger, Howell H., Hutchie L., Roy, David, Maude and
Theodore R. Fletcher, this December the 21st, 1904.

Geo. P. Cridlin
Comm. ~~Clk~~ Circuit Court, Lee Co., Va.,

W. S. Bannett et al
vs
Answer of
H. A. L.
Wright Logan et al

Filed Dec. 21st 1904.
H. T. Ewing.
Clerk,

To the Honorable H.A.W. Skeen, Judge of the Circuit Court of Lee County, Virginia:

The answer of Eliza Banner, widow of David Banner, deceased, to a bill exhibited against her and others in this Honorable Court by V.S. Banner et al:

For answer to said bill or to so much thereof as respondent is advised it is material or necessary that she should answer the same, answering she says:

That it is true as alleged in said bill that her husband, the said David Banner, lately departed this life intestate; that it is also true that at the time of his death he was the owner of two tracts of land in Lee County containing about 550 to 600 acres. Respondent further says that said complainants have set out correctly the heirs of the said David Banner, in their bill.

Respondent says that she is willing that said lands be partitioned among said heirs and that dower should be laid off to her *if she desires it* in the same, but she asks that her dower be laid off so as to include the mansion house where she now lives *if laid off to her at all.*

And now having fully answered said bill, respondent prays to be hence dismissed.

Geo. P. Cradine p.d.

V. S. Barnes et al
vs. { In Chy.

Wyatt Cogger et al

Answer

Filed Dec. 21st 1904.

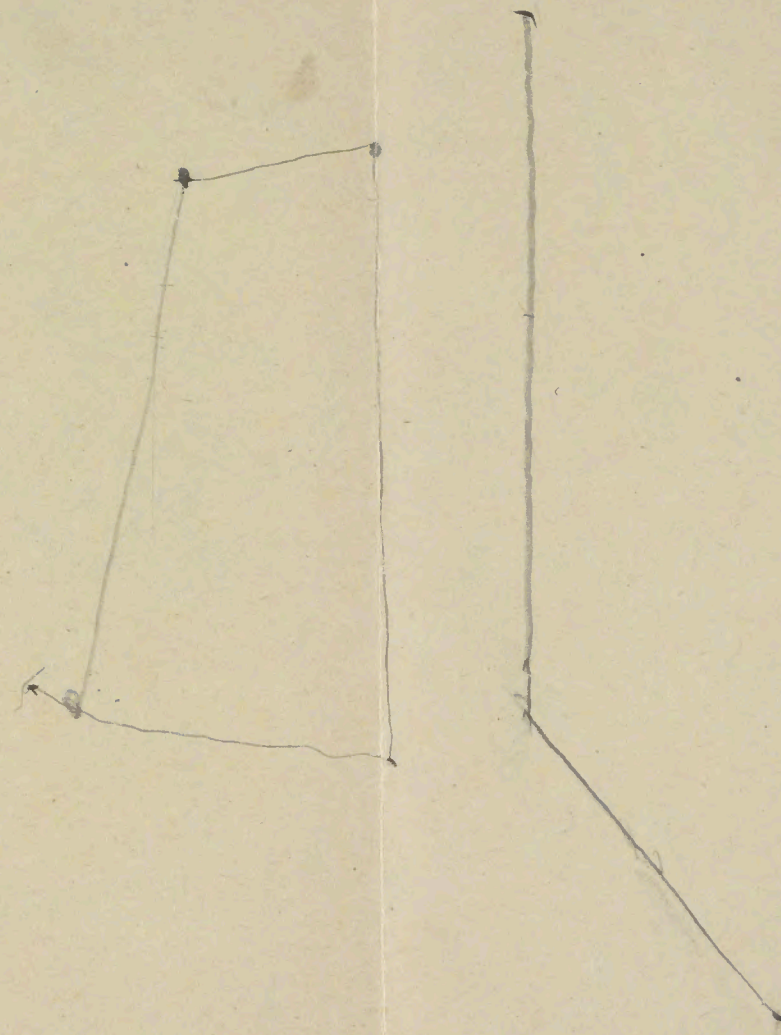
H. T. Ewing, Clerk.

J. S. Banner et al.

vs.

Wyatt Logan et al.

This cause came on this day to be heard on the bill of the plaintiffs the answer of Jase Banner widow, of David Banner deceased and the answer ^{this day filed by leave of court} of the infant Defendants Wyatt Logan Forest Logan Howard H Fletcher Hutchins L Fletcher Roy Fletcher David Fletcher Maud Fletcher and Theodore R. Fletcher by A M Gains guardian ad litem and was argued by counsel And it appearing to the Court that partition of said land is both expedient and necessary, it is therefore adjudged ordered and decreed that W. E. Thompson, Elkanah Flannery and A. P. Heakam who are appointed Commissioners for the purpose do go upon the lands of which David Banner died seized, and they will lay off and assign to his widow Elysa Banner one equal third third of in rental value as and for her dower if she should desire dower assigned to her in kind, They will then lay off and assign to W. S. Banner, Elizabeth Gillewaters Rebecca Butler and Fannie Logan children and heirs at law one equal sixth each, of said land and to E B Logan Marvin Logan Sam Logan Grover Logan Wyatt Logan and Forest Logan heirs at Law of Mary



Logan M. Mary Banner together are
equal 1/4th of said land and to Howard
H. Hutchins R. Roy, David M. and
and Theodore R. Hutchins children
and heirs at law of Emma Hutchins
nee Emma Banner, together are equal
1/4th of said land. In making these as-
signments among said heirs said com-
missioners will have due regard to quan-
tity quality ways and water.

They will report their action hereunder
to the next term of this court and this
case is continued

T. S. Baumer et
als 3 Deane
Hoyall Coqueret als

For Protection

C. O. B. 7, page
567. Dec. 21, 1905

Enter this date
HAWSLER
Dec 21st / 1904

(1)

$\begin{array}{r} \$118 \\ \times 20 \\ \hline \$2360 \end{array}$

V.S. Banner et als.

vs. In Chancery.

Wyatt Coger et al.

To the Hon. H.A. W. Skeen Judge of the Circuit Court Of Lee County: At a circuit Court held and cintinewed ~~and held~~ for Lee County at the court house thereof on Wednesday the 21st. day of December 1904 It was orderd and decreed that W.E. Thompson Elkanah Flanary and A.P. Hickam be appointed Commissioners to go upon the lands of David Banner Dec. and Partition the Land of which he died seized among the parties entitled thereto in this Cause.

Your undersigned commissioners Beg leave to report that on the 13th. day of March, 1905 they did go upon the land mentioned in said bill, lay off and assign to those entitled thereto as follows: After making a survey of the boundery of land, we find it to contain $607\frac{1}{2}$ acres as shown by Platt enclosed herewith. We lay off and assign to V.S. Banner Lot No. One lying on the North Side of Powells Mountain containing 65 acres, Bounded as follows To-wit: Beginning at a stake near ahickory on the said V.S. Banners line shown on Platt at the red letter A.S. $32\frac{1}{4}$ E. 129 Poles to a stake and pointers in a low gap on top of Powells mountain Shown on Platt at B., Thence with the top of said mountain N. 59 E. four poles and ten feet to a hickory N. 42 E. 15 poles and ten feet to a large Chestnut Oak N. $64\frac{1}{2}$ E. 13 Poles to a hickory in a low gap, N. 48 E. 13 Poles to a small Black oak on a point, N. 66 E. ten Poles and six feet to a small Chestnut Oak and a chestnut, Shown on Platt at C. Thence leaving the top of said mountain N. 18 W. 70 poles to a locust on the Taylor Line shown on platt at D., Thence N. $69\frac{3}{4}$ E. 28 Poles and eleven feet shown on Platt at E., Thence down a hollow N. $6-1\frac{1}{2}$ W. 11 poles and three feet to a stake N. $26-3\frac{1}{4}$ W. 29 poles and 4 feet to Sugar tree. N. 23 W. 20 poles to a stake on the Original line. S. 60 W. $108-3\frac{1}{4}$ poles to the BEGINNING/

LOT #2

We also assigned Lot #2 To V.S. Banner, Lying on the South side of Wallens Ridge: Beginning at a stake and a Chestnut stump, Original corner, shown on platt at G. N. 41 W. $51-1\frac{1}{2}$ Poles to a White Oak Pointer to Jacob Rasnick on East of the Hollow. N. 45 W. with said Rasnicks line 97 Poles to Poplar on a rise. N. 25 W. 12 poles and 9 feet to Dogwood on a ridge. N. 38 W. 102 Poles to three hickories on top of wallens Ridge, shown on platt at H. South 58 W. $24-1\frac{1}{2}$ Poles to a stake and Locust pointers, Cornerto Lot #3 shown onplatt at I. S $37-1\frac{1}{2}$ E. 266 Poles to a chestnut, Thence N. $48-1\frac{1}{2}$ E. 40 Poles to the Beginning. containing 52 acres.

LOT #4

We lay off and assign Lot Number four to the Heirs of Emma Fletcher, that is Howard H. Fletcher, Hutchie L. Fletcher, Roy Fletcher David Fletcher Maud Fletcher and Theodore R. Fletcher Lying on the North Side of Powells Mountain and bounded as follows: Beginning at a stake 23 feet east of a double Chestnut on Top of Powells Mountain shown on platt at K. North 34 W. 179 Poles to a sycamore on the north bank of the road North $33-1\frac{1}{2}$ W. 80 poles to a Walnut shown on plat at L. S. $52-1\frac{1}{4}$ W. 28 Poles to a rock in a hollow shown on platt at M. South 51 E. 26 poles, short Three Feet to a rock. S. $13-1\frac{1}{2}$ E. 38 - $1\frac{1}{2}$ Poles to a stake in Wallens Creek Thence up said creek S. 60 E. 11 poles. S. $26-1\frac{1}{2}$ E. 15 poles and 5 feet to a stake at the a branch Shown on platt at N. Thence up the said branch S. $43\frac{1}{2}$ E. 11 Poles to a stake. S. $3-1\frac{1}{2}$ E. 3 Poles and 11 feet to a stake. S. 46 E. 6 Poles to an Elmn Tree. S. ~~$17-1\frac{1}{2}$~~ $17-1\frac{1}{2}$ E. 5 poles to a walnut and a Mulberry. S. 42 E. 22 Poles and 11 feet to a Planted Rock on a steap bank shown on platt at O. S. 45 E. 122 Poles and (9 feet to Rocks and two Small Dogwoods and a large Chestnut Oak Pointer on top of Powells Mountain shown on Platt at P. N. $63-1\frac{1}{2}$ E. 9 and $3\frac{1}{4}$ poles to double chestnut. N. 48 E. 23 feet to the BEGINNING, containing $43-1\frac{1}{4}$ acres

LOT #5

We also assign Lot #5 lying on the south side of Wallens Ridge to the aforesaid Fletcher Heirs the same being bounded as follows BEGINNING at a Planted Rock on Top Of the hill shown on plat at R. N. 24-1/2 W. 194 Poles to a Gum and Chestnut on top of a ridge shown on plat at S. South 2-1/4 W. 122 Poles to a Chestnut Oak. S. 10 E. 30 and 3/4 poles to Sauer Wood. S. 27 E. 42 Poles to a stake in a Flat. S. 73-3/4 E. 18 Poles and 5 feet to White Oak near a hollow N. 33-1/2 E. so as to divide a spring 8-1/2 poles to a chestnut on the side of a hill N. 40 -1/4 E. ~~xxx~~ 17 Poles short, 3 feet to Walnut and Blackoak. S. 37-1/2 E. 23 poles to 2 small Blackoaks. N. 52-1/4 E. 29-1/2 Poles to the BEGINNING containing 53-1/4 acres.

The residue of said tract of land contains 393-3/4 acres excluding the family Graveyard shown on plat as lot #3 We assign to James Gillenwaters and Elizabeth Gillenwaters, His wife They having purchased the interests of Rebecca Baker, Lannie Coger and Mary Cogers Heirs, the said Elizabeth Gillenwaters Being an heir at Law Of the said David Banner Making a total of 4-6th. of the said estate, The same Being bounded as follows: BEGINNING at a stake near a hickory on the north side of Powells mountain, Corner to Lot No. One shown on plat at a. S. 60 W. 30 poles to Rock. N. 23-1/2 W. 134-1/2 Poles to a stake and small Dogwood shown on plat at DW. N. 48-1/2 E. 84 poles to a chestnut corner to lot #2 Shown on Plat at J. and With ^{up} Of the same N. 37-1/2 W. 265 poles to locust and stake on top of Wallens Ridge shown on plat at I. Thence with the top of the said ridge S. 56 W. 26 poles to a rock and a Blackoak. S. 43-1/2 W. 17 poles and 4 feet to a rock and chestnut Oak pointer. S. 23-1/2 W. 19 poles and 9 feet to a small Walnut. S. 46 W. 13 poles and 4 feet to a blackoak and Rocks. S. 83-1/2 W. 7-3/4 poles to a stake. S. 42-3/4 W. 15 poles to a Walnut Stump in rocks, Thence leaving the top of said ridge with the line of Peter Rasnick. S. 27-3/4 E. 80 poles to a stake in hollow 10 feet east of a Hickory marked in a Hollow. S. 53-1/2 W. 22 poles to a chestnut and Gum on top of the ridge, Corner to lot NO. 5 Thence with a line of the same S. 24-1/2 E. 194 Poles to a ~~Planted rock~~ ~~S. 52-1/4 W. 31-1/2 Poles to a walnut corner to lot No. 4~~ ~~and With the same S. 33-1/2 E. 80 poles to Sycamore on the North side of the road~~ ~~shown~~ S. 34 E. 179 Poles to a stake on top of the mountain corner to Lot NO. 4 Shown on plat at K. Thence with the top of the said mountain as it meanders about 117 poles to a stake in a low gap corner to lot NO one Shown on plat at ~~xxx~~ B. and With lines of the same N. 32-1/4 W. 129 poles to the BEGINNING

There is reserved and set apart in this lot a family Graveyard containing 1/4 acre so as to extend to the line of lots 3 & 4 as shown on Plat at X. and shall be treated as such.

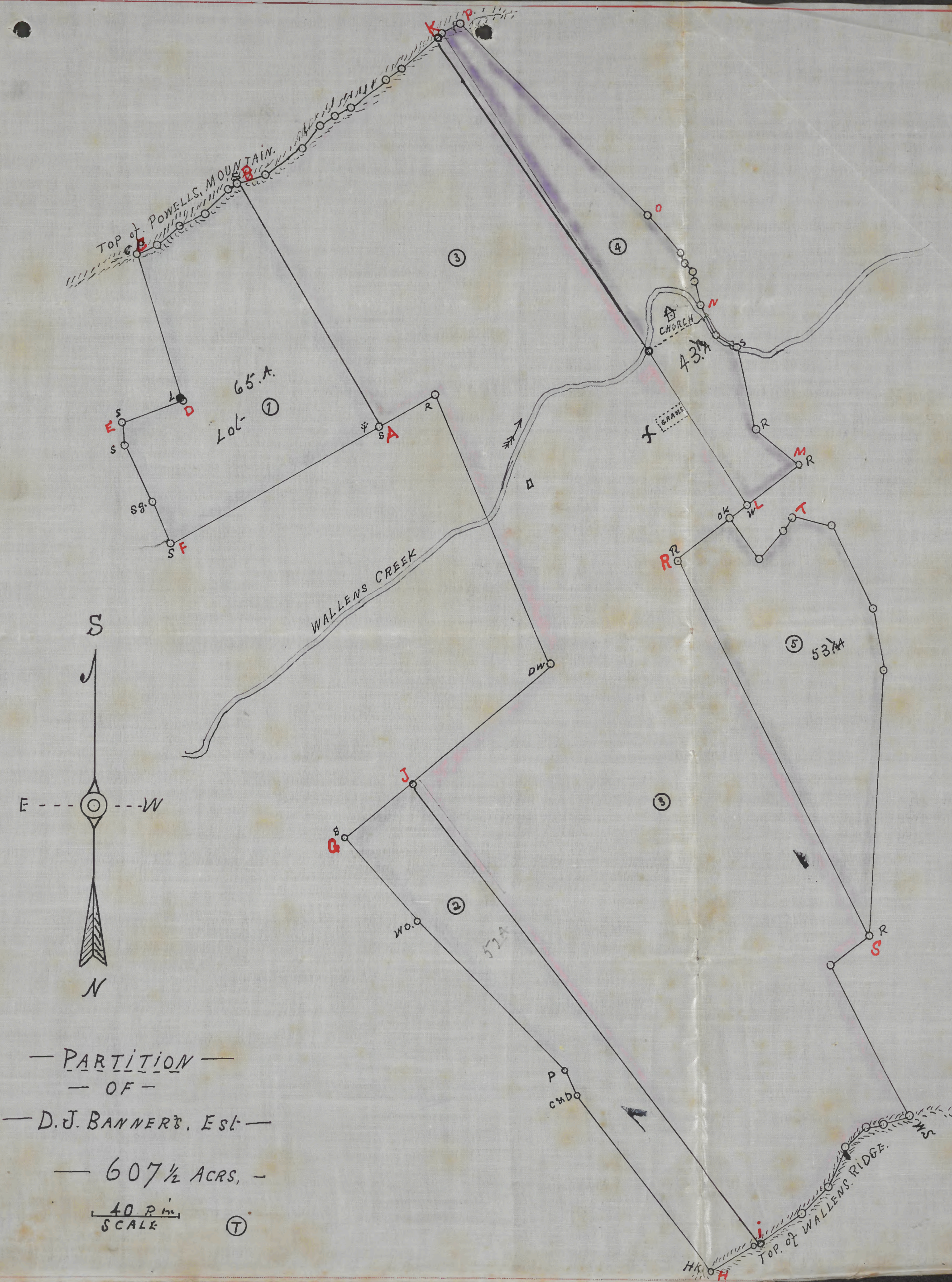
There is also reserved in lot NO. 4 a Church ~~xxx~~ House and lot containing about 3/4 of an acre and Known as Banners Chapple so long as said house and lot is used ~~xxx for xxx purposes~~ for school or church purposes, but if it is abandoned it shall fall to Lot NO. 4 only.

Your Commissioners did not Lay off and assign to the Widow, ~~Jane~~ Banner, a Dower interest in said estate she desiring to have the right and privilege of staying at the old Home place and chargeing the estate with her maintenance during her Natural life, This arrangement being agreeable to all interested parties the same was accordingly done.

All of which is Respectfully submitted.

W. E. Thompson
Ednah Flanary
A. P. Hickam

Conn



— PARTITION —
— OF —
— D.J. BANNER'S Est. —
— 607 1/2 ACRES, —
40 P.M.
SCALE
(T)

V. S. Banner & Co

is

W. J. Allen Cozer & Co

Commissioners
Report.

Costs:

W. E. Thompson	\$21.00	} Gen.
Elkanah Flanary	7.00	
A. P. Hickam	9.00	
Curly Banner	5.00	} chm.
Ill. Hall	5.00	
J. E. Killebrew	5.00	flogman
<u>\$52.00</u>		

Filed May 5th, 1908-

S. C. Gowing, Clk.

(2)

LB. 43 p. 66.

V. S. Banner it also

vs

Wyatt Logan it also

This cause came on again this day to be heard on the papers formerly read and report of partition by H. E. Thompson & F. Flannery and A. P. Hickman commissioners for the purpose, filed on the 5th day of May 1905, and was argued by counsel.

On consideration of which it is adjudged ordered and decreed that said report and partition be and the same is hereby confirmed. And it is further adjudged ordered and decreed that, V. S. Banner take and hold lots Nos. 1 & 2, assigned to him by meter and bounds as shown by said report and the plat filed therewith; that Howard H. Fletcher, Hutchie L. Fletcher, Ray Fletcher, David B. Fletcher, Maud Fletcher and Theodore R. Fletcher children and heirs at law of Emma Fletcher nee Banner take and hold lots Nos. 4 & 5 assigned as is shown by said report and the plat filed therewith and that James E. Hillenwaters and Elizabeth Hillenwaters his wife take and hold by the meter and bounds thereof lot No. 3, as shown by said report and plat, and in accordance with their

respective interests therein and it appearing from said report that James Banner wish of David Banner does not desire to have her dower assigned to her in kind but prefers to stay at the old home and it being admitted that the heirs have arranged among themselves with James & William Waters and wife for the support and maintenance of said widow the court approves the same but retains a lien upon all the land to secure the same and reserves the right to the said James Banner to have dower assigned here should any default be made in her support and maintenance. And it is further adjudged ordered and decreed that the Administrators pay the costs of this partition to be taxed by the Clerk, and when the same is paid they shall credit therefor in the settlement of their account and this case is stricken from the docket.

Medley -

Entered in C.O.B.

No. 8 - p. 56.

Recorded

Entered this
At 2 55/4 pm
May 24 - 1905

(3)

Virginia, Lee County, to-wit:

In the Clerk's Office of Lee County, on this the 29th day of August, 1905. The foregoing decrees, Commissioners' report and platt were presented, and admitted to record.

Teste:

H. S. Ewing,

Clerk.

V. S. Banner et al

vs. Wyatt Cozer et al

Recorded in
Deed Book No.

43, page 66.

Examined Aug
29, 1905. Indexed

Recorded in
Deed Book No.

43, page 66.

Examined Aug

29, 1905:

Clerk 1.50

Tax. 0.50

Platt \$2.00

\$4.00

VIRGINIA,

At a Circuit Court continued and held for Lee County at the Court-house thereof on Wednesday the 21st day of December, 1904.

V. S. Banner et als.

Plffs.

vs. In Chancery.

Wyatt Coger, et al.

Defts.

This cause came on this day to be heard on the bill of the plaintiffs, the answer of Jane Banner, widow of David Banner, deceased, and ~~the answer this day filed, by leave of~~ the infant defendants, Wyatt Coger, Forest Coger, Howard H. Fletcher, Hutchie L. Fletcher, Roy Fletcher, David Fletcher, Maud Fletcher, and Theodore R. Fletcher by A. M. Goins, Guardian ad litem, and was argued by counsel. And it appearing to the Court that partition of said land is both expedient and necessary, it is adjudged, ordered and decreed that W. E. Thompson, Elkanah Flanary, and A. P. Hickam, who are appointed Commissioners for the purpose, do go upon the lands of which David Banner dies seized, and they will lay off and assign to his widow, Eliza Banner, one equal third thereof in rental value as and for her dower, if she should desire dower assigned to her in kind, they will then lay off and assign to V. S. Banner, Elizabeth Gillenwaters, Rebecca Baker, and Nannie Coger, Children and heirs at law, one equal sixth each, of said land and to E. B. Coger, Marvin Coger, Ida Coger, Grover Coger, Wyatt Coger, and Forest Coger, heirs at law of Mary Coger nee Mary Banner, together one equal sixth of said land and to Howard H., Hutchie L., Roy, David, Maud, and Theodore R. Fletcher, children and heirs at law of Emma Fletcher nee Emma Banner together one equal sixth of said land. In making these assignments among said heirs, said Commissioners will have due regard to quantity, quality, ways, and water.

They will report their action hereunder to the next term of this Court and this cause is continued.

A Copy-Teste: H. C. Ewing Clerk.

V. S. Banner et als.

^{vs.}
Wyatt Cogger, et al

Executed by delivering
a copy of the within
Notice to the said
A. P. Hickman &
Ethanah Selanary
This Jan ^{the} 18 1906
L. L. McPherson D. S.
for P. M. Ball S. L. C.
Sheriff cost \$1.00

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *Grover Cogswell, Hyatt Cogswell, Howell H. Fletcher, Hutchins L. Fletcher, Ray Fletcher, David Fletcher, Maud Fletcher, Theodore Fletcher and Eliza Fletcher.*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the _____ Monday in _____ ~~1904~~ to answer a bill in chancery exhibited against *them* in our said court by _____

J. S. Banner et al

And have then there this writ. Witness, *H. S. Ewing*, ~~A. B. Munsey~~, Clerk of our said Court, at the court-house, the *21st* day of *December* ~~1904~~, and in the *12^{9th}* year of the Commonwealth.

H. S. Ewing, Clerk,

J. S. Bauer et al

vs.

}

SUBPOENA
IN CHANCERY

Eliza Bauer et al

Duncan & Criddle p. q.

To _____ Rules.

_____ Court.